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Industrial Injuries Disablement Benefit

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Introduction

You may be able to get a cash benefit under the industrial injuries scheme if you become disabled or unable to work because of an accident at work or one of the industrial diseases known to be a risk in your job.

This leaflet is about Industrial Injuries Disablement Benefit and other benefits you may be able to get with it or instead of it. They are all tax-free.

Industrial Injuries Disablement Benefit is paid as a weekly pension. The amount you get depends on how badly you are disabled. It can be paid after 15 weeks (90 days) have passed since the date of the accident or 90 days from the first day you were disabled by the disease, whether or not you have been off work. See page 4.

You cannot normally get **Industrial Injuries Disablement Benefit** if your disability or loss of faculty is less than 14 per cent. Disablements of less than 14 per cent include:

- loss of middle finger – 12 per cent
- loss of ring or little finger – 7 per cent
- loss of toe (other than big toe) – 3 per cent

More details are on pages 6–7.

You may be able to get **Reduced Earnings Allowance** if your disability or loss of faculty is 1 per cent or more.

Reduced Earnings Allowance can be paid if you are unable to return to your normal job or to do work with the same pay because of the accident or disease. See page 8.

Constant Attendance Allowance can be paid if you are so seriously handicapped that you need to be looked after all of the time because of an industrial accident or disease. See page 10.

Exceptionally Severe Disablement Allowance can be paid if you have a right to Constant Attendance Allowance at one of the two higher rates and are always likely to qualify for it. See page 11.

Industrial diseases

This leaflet generally refers to industrial accidents but much of the information also applies to certain industrial diseases which are a risk in certain jobs. Detailed information about these is given in leaflets:

NI 2 *If you have an industrial disease*

NI 3 *If you have pneumoconiosis or byssinosis*

NI 207 *If your job has made you deaf*

NI 237 *If you have asthma because of your job*

NI 272 *If you have a disease because of working with asbestos in your job.*

Sickness Benefit

Leaflet NI 16 *Sickness Benefit* gives details about Sickness Benefit and Invalidity Pension which you may get if you are incapable of work and you can't get Statutory Sick Pay from an employer. If you are unable to work because of an industrial accident or disease you may be able to get these even if you have not paid National Insurance contributions.

What to do if you have an accident at work

If you have an accident at work you should tell your employer or foreman or someone in authority at once. If you cannot do it yourself, get someone to do it for you. It is very important that you should report the accident as soon as possible after it happens otherwise you might have difficulty in proving your claim. Factories, mines, quarries, and business premises where ten or more people work have to keep an accident book. You or someone acting for you should enter details of the accident in this book as soon as possible after the accident.

If there is no accident book, or if you can't record the accident in it, you can tell your employer by word of mouth or by letter. Give your name and address, job, the cause and the nature of the injury, and the date, time and place of the accident.

If someone else notifies the accident for you, they must give their name, address and job.

If you are an office-holder an accident should be reported to the person or body responsible for paying you.

Even if the accident does not seem serious at the time, make sure that it is reported, either in the accident book or direct to your employer. If you think it might have some ill-effect in the future you should also apply for a decision that it was an industrial accident. The matter can then be decided while the facts are fresh in people's minds and the decision will be on record. The application is not a claim for Disablement Benefit, but it may help if you become disabled as a result of the accident and need to claim this benefit later on. You can get an application form (BI 95) from your Social Security office and you should apply as soon as possible after the accident.

Industrial Injuries Disablement Benefit

Who can claim

If you are an employed earner, you are covered by the industrial injuries scheme. An employed earner is a person who:

- works for payment under a contract of service; **or**
- is an office-holder (for example a company director), **and**
- has to pay income tax under Schedule E on their salary, wages or fees.

You do not need to have paid any National Insurance contributions to be able to get industrial injuries benefits. If you are self-employed you are not covered by the industrial injuries scheme and cannot get industrial injuries benefits. Trainees who have an accident or prescribed disease during the course of a training scheme run by the Employment Department cannot get industrial injuries benefits. Members of HM Forces cannot get industrial injuries benefits. If you are not sure whether you are covered, or if your accident happened or you got the disease as a result of employment between 5 July 1948 and 5 April 1975 you should ask at your Social Security office.

You may be able to get Industrial Injuries Disablement Benefit if:

- you have been injured, **and**
- your injury was caused by an accident that happened on or after 5 July 1948 during and as a result of your work (see below), **and**
- you were an employed earner (see above) at the time of your accident, **and**

- the accident happened in Great Britain. But you may still get benefit if:

- you are a mariner, or airman or work on the continental shelf of the United Kingdom, another EC country or Norway, **or**
- your employer is paying Class 1 National Insurance contributions for you while you are working out of the country, **or**
- you are paying the special Class 2 contributions for volunteer development workers, **or**
- if you work in one of the countries with which Great Britain has an agreement covering industrial injuries.

What type of accident is covered

An accident, for Industrial Injuries Disablement Benefit purposes, means any unintended happening or incident at work. You can only get benefit if the accident results in personal injury. It doesn't matter whether the effect of the injury is immediate (for example, if you break your leg in a fall) or delayed (for example, a blow to the knee which eventually leads to severely impaired mobility).

Generally, an accident which happens when you are at work is accepted as having happened as a result of your work, unless there is some evidence that this is not so. Whether or not you are considered to be at work at a particular time depends on the circumstances. For example, you cannot normally be regarded as being at work when you are travelling to or from work, but you may be if you are in transport provided by your employer.

An accident can be treated as having happened when you were at work and as a result of your work if it occurred:

- because you were doing something you were employed to do, **or**

- because your work put you at a special risk, **or**

- while you were helping in an emergency, for instance in rescue work at any premises used for your employer's business.

If you were doing something which your employer does not allow you to do or the rules for your job do not allow you to do, the accident may still be treated as having happened during, and as a result of, your work if what you were doing was done for the purpose of your employer's business and was within the scope of your job. In some other unusual cases, such as skylarking by workmates, an accident can be covered if it happens while you are at work and through no fault of your own.

If you get a disease because of an accident at work and your disease is listed as an industrial disease, you may be able to get benefit under the rules for industrial diseases – see leaflet NI 2 *If you have an industrial disease*. If your disease results from an infection at work (e.g. Athletes Foot or Foot and Mouth disease), and that disease is not listed as a prescribed disease in leaflet NI 2, you may still be able to get benefit under the rules for industrial accidents. If you are not sure which rules apply to you, ask at your Social Security office.

When to claim

If you have had an accident, claim after you have been disabled by the accident for nine weeks. But if you think you have an industrial disease, claim straight away.

Claim Industrial Injuries Disablement Benefit no later than six months after the date of your accident or the date your disease started. If it is later, you may lose some benefit. This is because Industrial Injuries Disablement Benefit can't be back-dated more than three months before the date of your claim, unless you had reasonable cause for delaying your

claim. And it cannot be paid for the first 15 weeks (90 days) after the date of your accident or the date your disease started (see page 3).

When you make your claim you must give the Social Security office full details of your accident. It will then be looked into and a decision given as to whether it was an industrial accident for the purposes of the scheme.

If you had an accident or got an industrial disease before 6 April 1983 different rules apply. Ask at your Social Security office for more information.

How to claim

You can get the appropriate form from any Social Security office. You can get the address of your nearest Social Security office from the post office or Unemployment Benefit office or by looking in the phone book under SOCIAL SECURITY, Dept of, or BENEFITS AGENCY. You will need one of the following forms:

Accidents – form BI 100A.

Pneumoconiosis, byssinosis, diffuse mesothelioma, lung cancer (when accompanied by asbestosis or bilateral pleural thickening) and bilateral pleural thickening – BI 100(Pn).

Occupational deafness – BI 100 OD.

Occupational asthma – BI 100 OA.

Other industrial diseases – BI 100 B.

Complete the form and return it to your Social Security office. The staff there can help you fill it in if you wish.

How your disablement is worked out

If it has been decided that you have had an industrial accident or have got an industrial disease, you will be asked to attend for a medical examination. This will be carried out by one or two independent doctors.

They will decide whether you have suffered a loss of faculty as a result of the

accident or disease, and decide the amount of your disablement and how long it will last.

What is loss of faculty?

Loss of physical or mental faculty means some loss of power or function of an organ of the body: this includes disfigurement even when this causes no bodily handicap. Whether loss of faculty results in disability is decided by comparing your condition as a result of the accident or disease with the condition of a normal healthy person of the same age and sex. Your disablement is shown as a percentage up to 100 per cent. You will not normally get benefit if your disablement is less than 14 per cent. But you may be able to get Industrial Injuries Disablement Benefit if:

- you have had more than one accident or disease and your total disablement is 14 per cent or more, **or**
- you are found to be suffering from one of the prescribed respiratory diseases (pneumoconiosis, byssinosis or diffuse mesothelioma) and disablement is one per cent or more.

The decision takes no account of factors other than the physical or mental condition of the injured person. So the basic Industrial Injuries Disablement Benefit is not affected by what type of job you do or any loss of earnings. It can be paid whether or not you have returned to work and it does not depend on your earnings. Loss of earnings and other circumstances may, however, mean you can get one or more of the benefits described on pages 8–12.

About the medical examination

If you can travel you will be told when and where to go for the examination. You will be told what out-of-pocket expenses you can claim. If it is decided that you are not fit to travel alone, you will be able to claim for someone to travel with

you. The actual examination is held in private but your companion can be present if the doctor(s) allow it. If you are not fit to travel or you are in hospital you may be examined in your home or in the hospital.

You can give the doctors any evidence not included on your claim form if you think it will help them in deciding your disablement.

After the examination your Social Security office will tell you the decision on your claim and the amount of any benefit you will get.

The degrees of disablement for certain defined injuries are laid down in a scale. For example, for serious disablement such as loss of both hands or loss of sight the degree of disablement is 100 per cent, the loss of one hand is normally 60 per cent and of an index finger 14 per cent. The percentage for other injuries not in the scale is arrived at by comparison with these standards. The decision takes account of all disabilities resulting from the industrial accident or disease.

Where your disability also results from some other cause, the degree of disablement which would in any event be present due to that cause, is not counted.

If your disablement is 11 per cent or more, and some other condition arises after the accident but is not directly caused by it, any increase in your disablement due to the accident as a result of that other cause is also used to work out your disablement.

A final decision for life may be given if your disability is permanent and is not likely to change much. Where you are likely to make a full recovery the decision may be final for a limited period. You may be given a provisional decision for a limited period at the end of which you will be re-examined and your disablement will be looked at again.

How much?

If your disablement is less than 14 per cent you cannot normally get Industrial Injuries Disablement Benefit, but see page 6, 'How your disablement is worked out', if you are suffering from one of the prescribed respiratory diseases. If your disablement is at least 14 per cent your Industrial Injuries Disablement Benefit will be paid as a weekly pension.

If your disablement is between 14 per cent and 19 per cent inclusive you will get a pension at the 20 per cent rate. If your disablement is over 20 per cent it will be rounded up or down to the nearest 10 per cent. For example, if your disablement is 34 per cent you will get a pension at the 30 per cent rate and if your disablement is 35 per cent you will get a pension at the 40 per cent rate.

The latest Industrial Injuries Disablement Benefit rates are listed in leaflet NI 196 *Social Security benefit rates*.

How you are paid

You will usually get a book of orders which you can cash on Wednesdays at the post office of your choice.

If you get other benefits

You can get your basic Industrial Injuries Disablement Benefit on top of any other National Insurance benefits you can get, for example Sickness or Invalidity Benefit or Retirement Pension.

If you have more than one industrial accident or disease, your total payments by way of Industrial Injuries Disablement Benefit cannot be more than the 100 per cent rate of Industrial Injuries Disablement Benefit. But you may be able to get Reduced Earnings Allowance on top (see page 8).

You can get Industrial Injuries Disablement Benefit in full as well as a War Disablement Pension or Income Support

or both. But Industrial Injuries Disablement Benefit may affect the amount of War Pension or Income Support that you get.

If you disagree with a decision

If you disagree with any decision to do with your claim for Industrial Injuries Disablement Benefit you may be able to appeal against it. When you are given the decision you will be told if you can appeal and how to appeal.

If you would like your case looked at again

You can ask for your case to be looked at again if:

- you think fresh evidence shows that a decision was made in ignorance of a material fact, **or**
- you think fresh evidence shows that a decision was based on a mistake as to a material fact, **or**
- you think that the decision itself or the method by which it was reached was not in accordance with the Social Security Act or Regulations, **or**
- since the decision your injury has got worse, **or**
- you are still disabled after your Industrial Injuries Disablement Benefit runs out.

If you are getting Disablement Benefit because of an industrial disease and you want your case looked at again because your disablement has got worse you should say so before your benefit runs out.

If you think you meet the rules for your case to be looked at again you should ask your Social Security office.

Industrial rehabilitation

Courses are provided by the Employment Department at Employment Rehabilitation and ASSET centres for men and women who have either been

away from work for some time because of accident or illness, or who are unable to continue in their usual occupation because of accident or illness. They are designed to help them regain their working fitness either for their former job or for other suitable work. If you want this kind of help you should get in touch with the Disablement Resettlement Officer (D.R.O.) at your local Jobcentre. The D.R.O. will tell you about the courses available and about the special allowances you can get when you are on a course.

Reduced Earnings Allowance

Who can claim

You may be able to get Reduced Earnings Allowance if your accident happened or your disease started **before 1 October 1990** and you can't return to your regular job or do work of the same standard because of the effects of the accident or disease.

You can get the allowance if:

- you **have been incapable of doing** your regular job or a suitable job of the same standard since the end of the 90-day qualifying period (see page 3). Work that you do for rehabilitation or training, to test whether you have recovered or while waiting to have surgical treatment can – within certain limits – be disregarded **or**
- you **are likely never to be able to do** your regular job and cannot do a suitable job of the same standard.

Your regular job means the main job that you were doing before the accident. It doesn't mean an extra part-time job even if this job was covered by the industrial injuries scheme.

Whether other employment is of the same standard will depend mainly on whether the pay is comparable, but your

chances of promotion to higher paid work in your regular occupation can also be taken into account in some circumstances. Employment of the same standard means only employment covered by the industrial injuries scheme.

If your regular job (or a suitable job of the same standard which has previously been used for comparison purposes) no longer exists, your earnings will be calculated by reference to an index based on the changes in the levels of earnings as published by the Employment Department Group.

If you are suffering from pneumoconiosis and get advice from the Special Medical Board about the conditions in which you should work, there are rules which may help you to qualify for reduced earnings allowance if you leave your regular job. You will usually be regarded as unable to continue in that job or to do work of an equivalent standard. This will apply even if the Special Medical Board advised that you could continue in your job in suitable dust conditions.

Reduced Earnings Allowance under the industrial injuries scheme can be paid as well as an allowance for a lowered standard of occupation under the war pension scheme.

From 1 October 1989 if you are of pensionable age (60 for a woman, 65 for a man) and entitled to Reduced Earnings Allowance (which is not being paid at a fixed rate) you may continue to get the allowance even if you are getting State Retirement Pension. To do so you must remain in regular employment. If you are getting Sickness Benefit, Invalidity Benefit or Unemployment Benefit, you may be regarded as not having given up regular employment.

How and when to claim

Claim as soon as you think that you meet

the rules for the allowance. Do not delay claiming until your Industrial Injuries Disablement Benefit claim is determined. Get a claim form from your Social Security office. It is very important that you fill in and return the form as soon as possible, otherwise you may lose benefit for any period more than three months before the date of your claim.

If you disagree

If you disagree with the decision on your claim you can appeal. Your rights of appeal will be explained in the decision sent to you.

How much?

The amount of the allowance is the difference between how much you earned in your main job and how much you earn in a suitable job that you can do now. But you cannot get more than the maximum rate. See leaflet NI 196 *Social Security benefit rates* for current amounts.

Reduced Earnings Allowance can be paid on top of Industrial Injuries Disablement Benefit. If you don't get Industrial Injuries Disablement Benefit because your disablement is less than 14 per cent you can still get Reduced Earnings Allowance if your disablement is one per cent or more.

Reduced Earnings Allowance, like most Social Security benefits, goes up from time to time. But if you retired for Social Security purposes on or before 9 April 1989 your Reduced Earnings Allowance will not go up after 9 April 1989.

Your Social Security office will tell you about arrangements for payment of your Reduced Earnings Allowance. If the allowance is only for a short time, it will usually be paid weekly by girocheque. For longer periods a book of orders will be issued and will include any Industrial Injuries Disablement Benefit you can get.

Retirement Allowance

You do not need to claim Retirement Allowance: it is awarded automatically. The award is usually for life, and like most Social Security benefits it goes up from time to time.

If your Reduced Earnings Allowance is at least £2.00 a week and:

- you are over 65 (man) or 60 (woman) and you give up regular employment on or after 1 October 1989; or
- you reach age 65 or 60 on or after 1 October 1989 and you are not in regular employment

your Reduced Earnings Allowance will stop and you will get Retirement Allowance instead.

If you disagree

If you disagree with the decision on your award you can appeal. Your rights of appeal will be explained in the decision sent to you.

How much?

Retirement Allowance is awarded at a rate equivalent to 25 per cent ($\frac{1}{4}$) of the rate of Reduced Earnings Allowance to which you were entitled on the day before you gave up work. But it cannot be higher than 10 per cent of the maximum (ie 100 per cent) rate of Industrial Injuries Disablement Pension. See leaflet NI 196 *Social Security benefit rates* for current amounts.

Retirement Allowance will normally be paid in a book of orders which will also include any Industrial Injuries Disablement Pension you get.

Constant Attendance Allowance

Who can claim

You can get Constant Attendance

Allowance if you are so seriously handicapped that you need constant care and attention as a result of the effects of an industrial accident or disease. You can get it for example if you are bedridden, blind or paralysed. It is not paid for help with ordinary housework or for similar domestic purposes, nor is it paid simply for help with dressing and undressing. Anybody who applies for the allowance has to prove that they need daily attendance and are likely to need it for a long time. Although they must show that they need daily attendance, the attendance need not last throughout the day. Attendance need not be provided on a paid basis, and the allowance can still be paid when attendance is provided by a relative. You can get the allowance if you need constant attendance due to the result of an industrial accident or disease and you are getting Industrial Injuries Disablement Benefit based on 100 per cent disablement or disablements that total 100 per cent or more.

It can also sometimes be paid if you get Industrial Injuries Disablement Benefit of less than 100 per cent, but also receive payments for disablement under the Workmen's Compensation Acts, the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit scheme, the war pension scheme or from service in HM Forces, which bring your total disablement to at least 100 per cent.

How and when to claim

If you are 100 per cent disabled, your need for constant attendance will be automatically considered at the time of your medical examination. You only need make a separate application for the allowance when you are 100 per cent disabled and you later discover that you need constant attendance. You should then apply on form BI 104 which you can get from your Social Security office. The staff there will help you fill it in. If you

cannot manage to do this for yourself, it can be done on your behalf by a friend or relative. It is very important not to delay otherwise you may lose benefit.

Medical examination and expenses

As a general rule, any medical examination will be carried out at the same time as the examination for deciding your disablement. Travelling and certain other expenses for yourself, and someone to go with you if necessary, will be paid.

How much?

How much you get depends on how much looking after you need. Up-to-date amounts are in leaflet NI 196 *Social Security benefit rates*. Constant Attendance Allowance will normally be paid in a book of orders which will also include any Industrial Injuries Disablement Benefit you get.

If you go into hospital

If you have to go into hospital for treatment or prolonged examination, an allowance you are already getting may continue in payment for the first four weeks you are in hospital. If you are in hospital longer than that and payment has ceased, it will be paid again for certain periods when you are allowed to leave hospital and after your discharge.

If you get other benefits

If you qualify for Constant Attendance Allowance, you cannot also get Attendance Allowance or the care component of Disability Living Allowance, unless it is higher than the Constant Attendance Allowance. In that case you will get Constant Attendance Allowance and may get the balance of the other benefit.

While you are getting Constant Attendance Allowance, the person looking after you may be able to get Invalid Care Allowance (for further information see

leaflet NI 212 *Invalid Care Allowance*) or may have his or her rights to basic National Insurance pension protected without the need to pay voluntary contributions by applying for home responsibilities protection (for further information see leaflet NP 27 *Looking after someone at home?*).

Christmas Bonus

People who get Constant Attendance Allowance will usually get the tax-free bonus shortly before Christmas each year. The amount and due date will be announced in advance, and the amount will also be shown in leaflet NI 196 *Social Security benefit rates*.

Only one payment can be made for each person so you cannot get a bonus with your Constant Attendance Allowance if you get one with another benefit such as Invalidity Pension or Retirement Pension.

The bonus will usually be paid automatically. But if you think you have a right to it and have not got it by the end of December, ask at your Social Security office.

Exceptionally Severe Disablement Allowance

Who can claim

This is an extra allowance for those who are exceptionally severely disabled and are already entitled to the Constant Attendance Allowance at one of the two higher rates, and whose need for the attendance is likely to be permanent.

How to claim

You do not have to make a separate application. As a general rule your entitlement will be considered at the same time as the Constant Attendance Allowance.

The allowance may be reconsidered from time to time depending on your circumstances. If you have not received the

allowance but believe that you ought to be getting it, you should get in touch with your Social Security office.

How you are paid

See leaflet NI 196 *Social Security benefit rates* for the current amount of Exceptionally Severe Disablement Allowance. It will normally be paid in a book of orders which will also include any Industrial Injuries Disablement Benefit you get.

If you get other benefits

You can get Exceptionally Severe Disablement Allowance on top of any other Social Security benefit.

Accidents and diseases before 5 July 1948

If your disablement is the result of an accident or disease due to work that you did before 5 July 1948 you can't get Industrial Injuries Disablement Benefit. But you may be able to get an allowance under the workmen's compensation scheme (get leaflet WS 1 *Supplement to workmen's compensation*) or the pneumoconiosis, byssinosis and miscellaneous diseases benefit scheme (get leaflet PN 1 *Pneumoconiosis, byssinosis and some other diseases*).

This leaflet gives general guidance only and should not be treated as a full and authoritative statement of the law.

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